



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,686	10/10/2003	Daniel T. Laur	MSH - 264	9927
8131	7590	11/08/2005	EXAMINER	
MCKELLAR IP LAW, PLLC 784 SOUTH POSEYVILLE ROAD MIDLAND, MI 48640		ROBERTSON, JEFFREY		
		ART UNIT		PAPER NUMBER
		1712		

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/683,686	LAUR ET AL.	
	Examiner	Art Unit	
	Jeffrey B. Robertson	1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 August 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakamura et al. (U.S. Patent No. 5,652,290).

For claims 1 and 2, Nakamura teaches silicone rubbers that contain polyorganosiloxanes that have vinyl groups bonded to silicon atoms, organosilicon compounds containing Si-H groups, and organic peroxides. Col. 1, line 55 through col. 2, line 7. For claim 2, the hydrogen-containing organopolysiloxane is not distinguished from the polyorganohydrogensiloxane set forth by Nakamura in col. 4, lines 9-15.

For claim 3, Nakamura teaches that the components can be mixed together in one part in col. 6, lines 53-56.

Reitmeier teaches that the degree of polymerization of the diorganopolysiloxanes used is 3,000 in col. 7, line 50. The examiner's position is that given this disclosure, the compositions would be liquid.

Art Unit: 1712

For claims 4 and 5, Nakamura teaches the addition of fillers including silica filler.

Col. 6, lines 6-9.

For claims 6-13, the specific peroxides set forth in these claims are taught in col. 5, lines 19-44.

3. Claims 1-8 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hatanaka et al. (U.S. Patent No. 4,329,275).

For claims 1 and 2, Hatanaka teaches liquid silicone rubbers that contain polyorganosiloxanes that have vinyl groups bonded to silicon atoms, polyorganohydrogensiloxanes, and organic peroxides. Col. 2, lines 19-46. For claim 2, the hydrogen-containing organopolysiloxane is not distinguished from the polyorganohydrogensiloxane set forth by Hatanaka.

For claim 3, Hatanaka teaches that the components can be mixed together in one part in col. 7, lines 65-67.

For claims 4 and 5, Hatanaka teaches the addition of fillers including silica filler. Col. 8, lines 3-10.

For claims 6-8 and 10-13, the specific peroxides set forth in these claims are taught in col. 5, line 61 through col. 6, line 5.

4. Claims 1-8 and 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Azechi et al. (U.S. Patent No. 6,734,250).

For claims 1 and 2, Azechi teaches liquid silicone rubbers that contain polyorganosiloxanes that have vinyl groups bonded to silicon atoms, polyorganohydrogensiloxanes, and organic peroxides. Col. 1, line 65 through col. 2, line 9; col. 2, lines 49-52; col. 11, lines 31-35; col. 19, lines 51-56. For claim 2, Azechi teaches hydrogen-containing organopolysiloxane in col. 5, lines 38-45.

For claim 3, Azechi teaches that the components can be mixed together in one part in col. 21, lines 27-30.

For claims 4 and 5, Azechi teaches the addition of fillers including silica filler. Col. 3, lines 12-19.

For claims 6-8 and 11-13, the specific peroxides set forth in these claims are taught in col. 19, lines 51-56.

5. Claims 1-8 and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Reitmeier et al. (U.S. Patent No. 6,790,533).

For claims 1 and 2, Reitmeier teaches one-component silicone rubbers that contain polyorganosiloxanes that have vinyl groups bonded to silicon atoms, polyorganohydrogensiloxanes, and organic peroxides. Col. 4, lines 13-24. For claim 2, the hydrogen-containing organopolysiloxane is not distinguished from the polyorganohydrogensiloxane set forth by Reitmeier.

Reitmeier teaches that the viscosity of the diorganopolysiloxanes used are preferably not more than 100,000 Pa.s in col. 6, lines 61-65. The examiner's position is that given this disclosure, the compositions would be liquid.

For claims 4 and 5, Reitmeier teaches the addition of fillers including silica filler.

Col. 7, lines 1-6.

For claims 6-8 and 10-12, the specific peroxides set forth in these claims are taught in col. 19, lines 51-56.

Response to Arguments

6. Applicant's arguments filed 8/30/05 have been fully considered but they are not persuasive.

Applicant argues that the Nakamura reference does not teach liquid silicone rubber systems and argues that because kneader mixers are used, the silicone rubber compositions are "high consistency rubber". Applicant also argues that because the product of example 1 had to be cured for 10 minutes, the rubbers are not "fast cure". The examiner does not find these arguments persuasive. First, the particular mixer used does not necessarily prove that the rubbers are not liquid. Indeed, in column 6, line 57, Nakamura teaches that any suitable mixing apparatus can be used. In addition, please see the patents cited in this office action for liquid silicone rubbers prepared using kneader mixers. The examiner is aware of the difference between the viscosity of base siloxanes and silicone rubbers. In this case, the low viscosity of the base siloxane is evidence that the rubbers are liquid. The examiner is not convinced that the compositions set forth in Nakamura are not "liquid". Regarding applicant's arguments pertaining to the curing time of the silicone rubbers, this argument is irrelevant. Nothing

in the claims requires that the rubbers are fast-curing. The claim limitations are met and are therefore anticipated by the reference.

Regarding the Hatanaka reference, applicant argues that the systems set forth in the reference are platinum cured, where the platinum requires phosphorus to effect the type of curing desired in the patent. Based on this teaching, applicant argues that the instant claims are not anticipated. The examiner disagrees. It is noted that the instant claims use the transitional phrase "comprising". This is open-ended language that allows for the presence of other components in the rubbers as claimed. Because the reference teaches all of the required limitations of the claims (which applicant does not dispute), the claims are anticipated. The language of the present claims does not exclude the additional presence of platinum and phosphorus.

Regarding the Reitmeier reference, applicant argues that the reference teaches "high consistency" rubber system and that if a peroxide system is used, there is no –SiH in the system. In response, the examiner's position as to the liquidity of the rubbers is essentially the same as set forth above; the viscosity of the base siloxane is evidence that the rubbers are liquid. The examiner disagrees that if peroxide used, there is no –SiH in the system. Reitmeier teaches that the –SiH component is a required component of the system in col. 4, lines 13-22. In column 5, lines 25-27, Reitmeier teaches that the –SiH component acts as an adhesion promoter. Applicant points to the examples as evidence that if a peroxide is used to cure the system, there is no –SiH in the system. However, this is contrary to the teachings of Example 3, which contain both a peroxide

and –SiH component (V1). Therefore, applicant's arguments regarding this reference are not persuasive.

Regarding the Azechi reference, applicant argues that this patent does not anticipate the instant claims because component D requires not only an –SiH group but also at least one other reactive group. Applicant argues that one of ordinary skill in the art would not use this material because it would cause adhesion of the materials since the materials of the instant claims are usually molded or extruded. Last, applicant argues that the objective of the invention is to provide fast-curing liquid silicone rubbers and poses a question as to why one of ordinary skill in the art would perceive the compositions of the '250 patent could provide such a material since the reference does not comment on fast cure materials. In response, the examiner refers applicant to the text of the instant claims and notes that these arguments are not commiserate in scope with these claims. The instant claims allow for the presence of additional reactive groups on the –SiH containing materials. Also, applicant is not claiming molded or extruded materials. Last, it is noted that none of the claims even mention the term "fast cure". The '250 patent teaches the limitations of the instant claims as set forth above and therefore the claims are anticipated.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

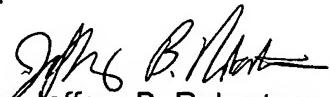
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey B. Robertson whose telephone number is (571) 272-1092. The examiner can normally be reached on Mon-Fri 7:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JBR



Jeffrey B. Robertson
Primary Examiner
Art Unit 1712